

183	Duluth Land Co. (Yardley Right)	}	Claims based on use by natural flooding and subirrigation.
195	Duluth Land Co. (Lucy White Right)		
200	Duluth Land Co. (Clara Murdock Right)		
202	Duluth Land Co. (Armstrong Right)		
203	Duluth Land Co. (Ipson Right)		
204	Duluth Land Co. (Ryan Right)		
210	Duluth Land Co. (W. L. & B. Co. Right)		

XIII.

The use of drain, percolating and waste water.

Certain water users on the Beaver River System are making beneficial use of water which is evidently drain, percolating or waste water. Under the present statutes, upheld by court decisions, such waters are not public waters. The right to the use thereof cannot be acquired by filing and the irrigator above may at any time change his place and manner of use and thereby cut off the supply; or he may reconstruct his ditch or canals from the open earth type to a cement conduit or pipe line and thereby cut off the supply. In either case, the one who had temporarily used the water by collecting the same has no recourse against the owner of the water right above. Furthermore the appropriation of this water would be to the detriment of lower prior users diverting from the natural channels to which such percolating waters are tributary. For these reasons the State Engineer cannot in his Proposed Determination recommend a legal right covering such water. This use, in many cases, has gone on for some years without protest on the part of other water users and would appear to have some recognized standing. It is felt that full information in this regard should be included in the Proposed Determination, and there are listed the following water users with a description of the water diverted and the land irrigated.

No.	Name	Amount Claimed	Remarks
37	County Road Drain Ditch Association c/o J. H. Yardley	2.50 c.f.s.	Said water arises on the meadow lands in Secs. 17 and 20 and collects in claimants' drain ditch running westward along the County Road to Milford on a line 1825 ft. S. of the North line of Sec. 20, T. 29 S., R. 7 W. and is conveyed thereby to and upon and used as a supplemental supply to irrigate 201½ acs. of land owned and described as follows:
	Clark Black 15.0 acs.	SW¼SE¼NW¼, E½SE¼SW¼NW¼	Sec. 20
	George Muir 21.0 acs.	W½W½SW¼	Sec. 20, E½E½E½SE¼
	Ellen Smith 5.0 acs.	NE¼NE¼NW¼SW¼	Sec. 19
	Jos. A. Smith 1.0 acs.	NE¼NE¼NW¼SW¼	Sec. 20
	Jas. H. Yardley 112½ acs.	E½SW¼, W½SE¼	Sec. 19
	Wm. Blackner 35 acs.	S½SW¼NW¼, N½NW¼SW¼	Sec. 20
	John Atkin 12 acs.	E½SE¼NE¼, E½NE¼SE¼	Sec. 19
		SW¼SW¼NE¼, NE¼NE¼SW¼	Sec. 19
	Total 201½ acs.		
			T 29 S., R. 7 W.
40	Jas. E. Robinson	2½ c.f.s.	Claimant names 1885 as the date of appropriation. This water was decreed to these parties by this court in the case of Minersville Reservoir and Irrigation Co. vs. Beaver City et al. Said water arises in a pasture in SW¼NE¼ Sec. 19, T. 29 S., R. 7 W. and collects in a drain ditch thereon and is diverted thence into the County Road Drain ditch and conveyed thereby to and upon and used as a supplemental supply to irrigate 450 acs. of land in Sec. 22, T. 29 S., R. 8 W. Claimant names 1912 as date of appropriation. No application is on file in the State Engineer's Office covering same.
136	G. A. Fordham	2.0 c.f.s.	Said water arises in a meadow in W½NW¼ Sec. 25, T. 29 S., R. 8 W. and is at present collected in a ditch at a point approximately 2950 ft. S. of the NW Cor. said Sec. 25 and conveyed thereby to and upon and used to irrigate 20.0 acs. of land in NW¼SE¼SE¼, S½NE¼SE¼ Sec. 26, T. 29 S., R. 8 W. Claimant names 1870 as the date of appropriation.